

U.S. DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
FILED
MAR 30 2001
CLERK, U.S. DISTRICT COURT
By _____ Deputy

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involved in this case. FRE 402. Even if relevant, such evidence should be excluded because its probative value is substantially outweighed by the danger of unfair prejudice, confusion of the issue and misleading the jury. FRE 403.

2. Any evidence or mention of any of the Defendants' financial condition, financial hardship or lack of resources. Such evidence is irrelevant and immaterial to the issues involved in this case. FRE 402. Even if relevant, such evidence should be excluded because its probative value is substantially outweighed by the danger of unfair prejudice, confusion of the issues, and misleading the jury. FRE 403.

3. Any evidence, mention or references to the fact, amount or terms of GM's settlement with Mobley Environmental Services, Inc. Such evidence is not relevant, and even if relevant, should be excluded because its probative value is substantially outweighed by the danger of unfair prejudice, confusion of the issues and misleading the jury. FRE 402 and 403.

4. Any evidence, mention or references to any notices allegedly given to GM of any incident, release or detainment involving Byproduct not previously disclosed by Defendants in answer to GM's interrogatories¹ or in deposition. FRCP 37.

¹See Interrogatory No. 5 in Plaintiff's First Set of Interrogatories to Defendant American Ecology Environmental Services Corp. f/k/a Gibraltar Chemical Resources, Inc.

5. Any evidence or mention of alleged negligent GM acts or omissions not previously disclosed by Defendants in answer to GM's interrogatories² or in deposition. FRCP 37.

6. No evidence or mention of any of the following which occurred or were disclosed or produced in the Adams Litigation after July 28, 1999: settlements by other defendants, including the monetary amount of such settlement; any and all evidence, including deposition testimony, discovery responses or documents. Such evidence is not relevant, and if relevant should be excluded because its probative value is substantially outweighed by the danger of unfair prejudice, confusion of the issues, and misleading the jury. FRE 402 and 403. Such evidence is not relevant because the reasonableness of a settlement should be judged in light of the information available at the time the agreement is reached. *Gulf, Colorado & Santa Fe Rwy. Co. V. G.C. McBride*, 322 S.W.2d 492, 495-98 (Tex. 1958). Further, the determination regarding the reasonableness of a settlement should be made from the settling party's standpoint at the time of settlement. *Molette Penrod Drilling Co.*, 919 F.2d 1000, 1006 (5th Cir. 1990).

7. No mention or evidence regarding information redacted from documents produced by GM in this case. Such information was redacted based on the attorney-client privilege and Defendants' have waived any objection to the redaction by failing to file a

²See Interrogatory Nos. 8 and 9 in Plaintiff's First Set of Interrogatories to Defendant American Ecology Environmental Services Corp. f/k/a Gibraltar Chemical Resources, Inc.; Interrogatory No. 4 in Plaintiff's First Set of Interrogatories to Defendant American Ecology Corp.; and Interrogatory Nos. 5, 6 and 7 in Plaintiff's Second Set of Interrogatories to Defendant American Ecology Corp.

motion to compel with this Court. Such evidence is, therefore, not admissible and any mention of it would only serve to mislead, confuse and prejudice the jury. FRE 403.

8. No mention or evidence regarding the meaning of any term or provision in Corporate Purchase Agreement No. 3837. Extrinsic evidence is inadmissible to interpret an unambiguous, fully integrated contract. *Epps v. NCNB Texas Nat'l. Bank*, 838 F.Supp. 296, 301-302 (N.D. Tex. 1993) *aff'd*, 7 F.3d 44 (5th Cir. 1993).

WHEREFORE, PREMISES CONSIDERED, Plaintiff General Motors Corporation moves the Court to instruct Defendants' counsel, Defendants' witnesses and any representatives of Defendants not to make any mention, comments, question or answer, concerning the above matters, or any presentation of evidence in the case, or in the cross-examination or examination of witnesses, or in argument unless counsel first approaches the bench and obtains a ruling from the Court with regard to any claim or theory of admissibility of such matter.

Respectfully submitted,



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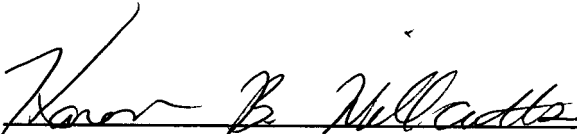
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ATTORNEYS FOR PLAINTIFF

CERTIFICATE OF CONFERENCE

I hereby certify that on July 30, 2001, I conferred with counsel for Defendants regarding the foregoing motion. Defendants' counsel indicated that Defendants agree to item no. 3 in the foregoing motion, but do not agree with any of the other items. Accordingly, items 1 through 2 and 4 through 8 are presented to the Court for determination.


KAREN BROWN WILLCUTTS

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document has been sent via facsimile and certified mail, return receipt requested, to counsel for Defendants, Tracy Crawford, Ramey & Flock, P.C., 500 First Place, Tyler, Texas 75702, on this 30th day of July, 2001.


KAREN BROWN WILLCUTTS